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**THE SENATE
STATE OF MICHIGAN**

HEALTH POLICY, CHAIR
INSURANCE, VICE CHAIR
BANKING AND FINANCE
ENERGY AND TECHNOLOGY

October 16, 2012

Senator Joe Hune, Chair
Senate Insurance Committee
Lansing, MI

Mr. Chair,

Senate Bills 1293 and 1294 will create a dramatic shift in Michigan's health insurance market. In that regard, I am a firm believer that competition is the most effective way to control health care costs. In proceeding with the mutualization process, promoting competition and accountability of these excessive reserves and how it will be spent is of the utmost importance.

Blue Cross Blue Shield has engaged in trade practices known as "Most Favored Nations" that unduly affects the market for all insurers and consumers. It is only fair that since Blue Cross Blue Shield will be under the same regulations as other Michigan health insurance carriers that they do not use their previous charitable non-profit status as a competitive advantage. By putting in statute a ban, similar to Massachusetts and Ohio among others, on the use of Most Favored Nations clauses, there would be a level playing field for Michigan's health insurance market.

Furthermore, I appreciate the efforts for an independent board to oversee the transfer and appropriation of these assets. However, I believe additional safeguards must be taken to ensure that the board members are acting in the best interest of Michigan residents. Ultimately, these reserves have accumulated due to Blue Cross Blue Shield's favorable tax status and from the premiums that Michigan residents have paid. **Therefore, it is only fair that these assets be used to best improve access to health care for the Michigan residents and employers who paid these premiums.**

The amendments I am proposing ensure that Michigan's health insurance market remains competitive and that these funds are used to reduce costs and improve the quality of health care for our residents. I respectfully request that these amendments be included in Senate Bills 1293 and 1294.

Sincerely,

Senator Jim Marleau
Serving North Oakland

(Attachment)

To amend SB 1294, Sec 652 by adding subsection (2) and renumbering the remaining sections

(2) A majority of the voting members of the board appointed under subsection (3) shall represent the interests of Michigan health care consumers, including small businesses, and shall not currently or within the immediately preceding 12-month period of time be employed by a carrier, producer, health care provider, or third party administrator or by an affiliate or subsidiary of a carrier, producer, health care provider, or third party administrator.

This amendment may replace the following subsection

Sec 653 (2)(C) Improve access to and cost and quality of health care services in this state

To amend SB 1294, Sec 653, subsection (2) by adding (x)

(x) Support programs that improve access to and reduce the cost of health care services to the residents of this state

To amend SB 1294, Sec 653, subsection (2) by adding (x)

(x) Support programs to reduce inefficiencies in the health care delivery system of this state through the use of technology, collaboration or coordination of entities providing health care services or education of health care consumers

To amend SB 1293 by striking Section 3405A and replacing with the following language.

To amend SB 1294 by striking Section 400 and replacing with the following language

(1) A contracting entity regulated under this Act shall not, directly or indirectly, do any of the following:

(a) offer to a health care provider a health care contract containing a most favored nation clause.

(b) require a health care provider to enter into a health care contract with a most favored nation clause.

(c) amend an existing health care contract with a health care provider to include a most favored nation clause.

(d) enforce a most favored nation clause in a health care contract unless such clause had been reviewed and affirmatively approved by the commissioner prior to the date of enactment of this section.

(2) as used in this section:

(A) "Contracting Entity" means a health insurance company authorized to do business in this state under, and a health maintenance organization or multiple employer welfare arrangement operating under, this Act; a system of health care delivery and financing operating under Section 3573; a nonprofit health care corporation operating under the Nonprofit Health Care Corporation Reform Act, 1980 PA 350, MCL 550.1101 to 550.1704; A NONPROFIT MUTUAL DISABILITY INSURER OPERATING UNDER THIS ACT; a voluntary employees' beneficiary association described in Section 501(c)(9) of the internal revenue code of 1986, 26 USC 501; A THIRD PARTY ADMINISTRATOR OPERATING UNDER THE THIRD PARTY ADMINISTRATOR ACT, 1984 PA 218, MCL 550.901 TO 550.962; and any other person providing a plan of health benefits, coverage, or insurance in this state.

(b) "Health Care Contract" means a contract entered into, materially amended, or renewed between a contracting entity and a health care provider for the delivery of basic health care services, specialty health care services, or supplemental health care services to insureds, members, or enrollees.

(c) "Health Care Provider" means a health professional licensed, certified, registered, or otherwise authorized to engage in a health profession under Article 15 of the Public Health Code, 1978 PA 368, MCL 333.16101 to 333.18838, or a health facility.

(d) "Health Facility" means:

(i) a facility or agency licensed or authorized under Article 17 of the Public Health Code, 1978 PA 368, MCL 333.20101 to 333.22260.

(ii) a psychiatric facility or intermediate care facility for people with mental retardation under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(iii) a facility providing outpatient physical therapy services, including speech pathology services.

(iv) a kidney disease treatment center, including a freestanding hemodialysis unit.

(v) an organized ambulatory health care facility.

(vi) a tertiary health care service facility.

(vii) a substance abuse treatment program licensed under Article 6 of the Public Health Code, 1978 PA 368, MCL 333.6101 to 333.6523.

(viii) an outpatient psychiatric clinic.

(ix) a home health agency.

(e) "Most Favored Nation Clause" means a provision in a health care contract with a health care provider that does 1 or more of the following:

(i) gives the contracting entity the option to prohibit or prohibits the health care provider from contracting with another contracting entity to provide health care services below a stated price.

(ii) gives the contracting entity the option to prohibit or prohibits the health care provider from contracting with another contracting entity to provide health care services below a certain price relative to the price specified in the health care contract.

(iii) gives the contracting entity the option to require or requires the health care provider to accept a lower payment in the event that the health care provider agrees to provide health care services to any other contracting entity below a stated price.

(iv) gives the contracting entity the option to require or requires the health care provider to accept a lower payment in the event that the health care provider agrees to provide health care services to any other contracting entity below a certain price relative to the price specified in the health care contract.

(v) gives the contracting entity the option to require or requires termination or renegotiation of the existing health care contract in the event that the health care provider agrees to provide health care services to any other contracting entity at a stated price.

(vi) gives the contracting entity the option to require or requires termination or renegotiation of the existing health care contract in the event that the health care provider agrees to provide health care services to any other contracting entity below a certain price relative to the price specified in the health care contract.

(vii) requires the health care provider to disclose contractual reimbursement rates with other contracting entities.